

UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

2022 MAY 11 AM 9:03

WILLIAM "BILLY" O'NEIL  
Plaintiff

Civil No.:

2:22-cv-103

CLERK

v.

BY pjl  
DEPUTY CLERK

VAIL HOLDINGS INC. d/b/a  
STOWE MOUNTAIN RESORT  
Defendant

**PLAINTIFFS' COMPLAINT**

NOW COMES the Plaintiff, William "Billy" O'Neil, and hereby COMPLAINS and ALLEGES of the Defendant, Vail Holdings Inc., d/b/a Stowe Mountain Resort, hereinafter "Vail", as follows:

1. Plaintiff, William "Billy" O'Neil, is a resident of the Town of Stowe, County of Lamoille, and State of Vermont.
2. Defendant Vail is a Foreign Corporation with a principal place of business in the Town of Broomfield, Colorado which owns and operates Stowe Mountain Resort.
3. The Plaintiff bring this federal action pursuant to diversity jurisdiction under **28 U.S.C. § 1332(a)** and the amount in controversy exceeds the sum of \$75,000.00 exclusive of interest and costs.
4. Venue is appropriate in this Court, pursuant to **28 U.S.C. § 1391(a)(2)**, because Defendant owns and operates a ski area in the State of Vermont and because the events which give rise in this action occurred at Defendant's ski area in Vermont.
5. Defendant, individually and/or jointly, owns, manages, maintains, operates, controls, markets, advertises, and sells services, accommodations, and recreational facilities to the public at a ski area known as Stowe Mountain Resort,

located in Stowe, Vermont.

6. One of the winter activities offered by Defendant is down-hill skiing on Defendant's premises located at Stowe Mountain.
7. On or about January 27, 2022, Plaintiff was a long-time pass holder and/or paying customer at Stowe Mountain.
8. At approximately 8:11 a.m. on January 27, 2022, Plaintiff was coming down the trail known as "North Slope" when, suddenly and without warning, Plaintiff encountered what is known in skiing as a "whale" or a snow making mound within the skiing bounds of the Trail.
9. The "whale" or snow making mound was unmarked as a hazard nor was it visible to Plaintiff.
10. The "whale" or snow making mound was over seven (7) feet high causing Plaintiff to launch into the air and land hard on the ground resulting in serious personal injury.
11. Plaintiff was transported from Stowe Mountain by Ambulance to Copley Hospital in Morrisville, VT.
12. Due to the severity of his injuries, Mr. O'Neil was then transported via Ambulance to Fletcher Allen Hospital where he was in ICU and underwent a four-hour surgery the day following the accident, January 28, 2022.
13. As a result of the impact with the ground, Mr. O'Neil's pelvis was fractured into 8-9 pieces.
14. As a result of the impact, Mr. O'Neil suffered three broken vertebrae, five broken ribs and a right hip fracture.

15. Mr. O'Neil is still recovering from his injuries. In fact, as of May 6, 2022, Mr. O'Neil underwent further surgery on his pelvis.
16. The area where the injury took place is utilized by both beginners and experts alike.
17. As the proximate result of the incident, William "Billy" O'Neil has sustained serious injuries including and but not limited to a shattered hip, fractured vertebrae and broken ribs. All as set forth more specifically below.

**COUNT I: PREMISES LIABILITY**

18. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs one through seventeen above as if fully set forth herein.
19. As the owner and/or operator of a mountain resort with ski slope intended for down-hill skiing, Defendant has a duty to maintain its facilities, including but not limited to the ski slopes, in a reasonably safe condition.
20. On or about January 27, 2022, Defendant breached this duty, in that it:
  - a. Designed, built and/or maintained its ski slopes, particularly in the area known as "North Slope", in an unsafe manner; and/or
  - b. Provided an unsafe facility for use by Plaintiff, William "Billy" O'Neil; and/or
  - c. Knew of the unsafe conditions and failed to take adequate precautions; including but not limited to, delaying the opening of the trail on January 27, 2022 and/or
  - d. Failed to post adequate warnings of dangerous conditions of which

Defendant knew or should have known; and/or

- e. Failed to post adequate warnings such as crossed skis, signs and/or barriers and/or other such warnings regarding the “whale” and/or snow-making mound which existed on January 27, 2022; and/or
  - f. Failed to properly inspect, make safe and protect its patrons, including Plaintiff, from known dangerous conditions such as a “whale” and/or a snow-making mound encountered by the Plaintiff on January 27, 2022; and/or
  - g. failed to properly and adequately hire and/or instruct the ski patrol, its agents, servants, workmen, employees and/or representatives of defendant herein as to the safe and proper procedures for inspecting trails and/or making sure said trails were safe for passage by the general public including Plaintiff; and/or
  - h. Committed other acts of negligence against Plaintiff; and/or
  - i. such other acts and/or omissions which constitute carelessness, recklessness, gross negligence and negligence which may be learned through the discovery process or adduced by the evidence at the time of trial.
21. As a direct and proximate result of the Defendant’s negligence, recklessness, and/or gross negligence and breaches of duties, Plaintiff has sustained serious injuries, permanent injuries and damages, all as set forth more specifically below.

**Ad Damnum**

22. As a further proximate result of Defendant's negligence and breaches of duty, Plaintiff, William "Billy" O'Neil has had to and will continue to require medical attention, past, present and future. As a direct result of the incident, Plaintiff incurred and will incur medical bills and, as such, the Plaintiff seeks reimbursement for past, present and future medical bills. Plaintiff has suffered and will continue to suffer physical pain and suffering and diminution of his enjoyment of life. As a direct result of the incident, Plaintiff has incurred economic losses in the form of lost wages. Plaintiff seeks past, present and future lost wages. As such, Plaintiff seeks damages in an amount sufficient to compensate him for his damages including but not limited to past, present and future damages for physical pain, suffering.

WHEREFORE, Plaintiff prays for compensatory, hedonic, economic, medical damages and punitive damages to adequately compensate him for his damages, with attorneys' costs, costs of suit and all other such costs as this Honorable Court deems just and appropriate.

**PLAINTIFFS DEMAND TRIAL BY JURY ON ALL COUNTS**

DATED at City of Rutland, in the County of County of Rutland and State of Vermont, this 11th day of May, 2022.

William "Billy" O'Neil  
Plaintiff,

  
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